



Commonwealth of Massachusetts  
Executive Office of Energy & Environmental Affairs

## Department of Environmental Protection

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June 21, 2013

### **Stage II Vapor Recovery Enforcement Discretion Directive for Motor Vehicle Fuel Dispensing Facilities subject to 310 CMR 7.24(6).**

Dear Motor Vehicle Fuel Dispensing Facility Owners and Operators:

**This is to advise you that MassDEP is exercising enforcement discretion to allow all motor vehicle fuel dispensing facilities [hereinafter referred to as “facilities” or gasoline dispensing facilities (GDFs)] to decommission their Stage II Vapor Recovery Systems. Beginning on July 1, 2013, facilities may decommission their Stage II Vapor Recovery Systems, provided that the facility meets the conditions set forth in this directive.**

#### **Background**

On July 2, 2012, MassDEP issued an enforcement discretion letter to allow new or modified facilities to be constructed without Stage II systems. That action was taken in response to a May 16, 2012 ruling of the U.S. Environmental Protection Agency (EPA) that allows states to phase out Stage II programs. EPA’s ruling is based on its finding that alternative technology that captures vapors from fueling (on-board vapor recovery systems) is in wide-spread use in the national vehicle fleet. In that ruling EPA encourages each state to assess whether and how to phase out its Stage II program considering state-specific information about program effectiveness, the state vehicle fleet, and State Implementation Plan (SIP) requirements.

Over the past year, MassDEP evaluated Massachusetts-specific information related to the costs and benefits of its Stage II and Stage I vapor recovery programs. The evaluation demonstrated that, while Stage II systems will continue to reduce emissions in Massachusetts through 2015, the reductions are not cost-effective beyond 2013, as an increasing number of vehicles in the Massachusetts’ fleet are equipped with on-board vapor recovery systems. The evaluation also demonstrated that cost-effective emission reductions can be achieved by enhancing Stage I systems. Therefore, MassDEP intends to propose regulations in the next few months that would eliminate the Stage II program and require enhancements to the existing Stage I systems as described below.

In the meantime, MassDEP believes that it is not reasonable to require a facility to continue to incur the expense of operating its Stage II system if the facility is ready to decommission the

**This information is available in alternate format. Call Michelle Waters-Ekanem, Diversity Director, at 617-292-5751. TDD# 1-866-539-7622 or 1-617-574-6868**  
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system before the regulatory changes go into effect. Therefore, MassDEP will exercise enforcement discretion to allow facilities to decommission their Stage II systems before the revisions to 310 CMR 7.24(6) take effect, provided that the facility meets the conditions of this Enforcement Discretion Directive.

### **Conditions of Enforcement Discretion**

**The owner or operator of a facility that decommissions its Stage II system must meet all the conditions of this Enforcement Discretion Directive, as set forth below, in order to be eligible for enforcement discretion. Facilities that do not fully meet these conditions continue to be subject to all the requirements of 310 CMR 7.24(6) and Stage II enforcement.**

#### **1. Applicability**

Until decommissioning takes place in accordance with paragraphs 1 through 4 of this directive, all Stage II systems shall be operated and maintained in accordance with 310 CMR 7.24 (6).

#### **2. Fees**

MassDEP's current annual fee charged for Stage II systems under 310 CMR 4.00 will remain in effect for Stage II systems in operation as of July 1, 2013. A Stage I fee will be proposed to replace the Stage II fee.

#### **3. Effective Date and Termination Date**

Any Stage II system may be decommissioned as of July 1, 2013. This enforcement discretion letter shall be effective until 310 CMR 7.24(6) is amended to require decommissioning of Stage II systems.

#### **4. Decommissioning Requirements and Stage II Annual Compliance and Certification**

- a. Decommissioning will be done in accordance with the PEI Recommended Practices for Installation and Testing of Vapor Recovery Systems at Vehicle-Fueling Sites, PEI/RP300-09, Section 14, Decommissioning Stage II Vapor Recovery Piping.
- b. Facilities that have a Stage II compliance certification due date between May 15, 2013 and September 1, 2013 will not be required to perform the Stage II annual compliance testing and certification, provided that the facility decommissions its Stage II system in accordance with PEI RP300 Stage II Decommissioning Practices, passes applicable Stage I tests (*see section e below*) and submits a Stage II Decommissioning Notification, PEI Decommissioning Checklist, and copy of passing test results to MassDEP no later than September 1, 2013.
- c. Facilities that have a Stage II compliance certification due date after September 1, 2013 will not be required to perform the Stage II annual compliance testing and certification provided that the facility decommissions its Stage II system in accordance with PEI RP300 Stage II Decommissioning Practices, passes applicable Stage I tests (*see section e below*) and submits a Stage II Decommissioning Notification, PEI Decommissioning Checklist, and copy of passing test results to MassDEP on or before the due date of the Stage II compliance certification.
- d. If not already installed, the facility shall install a California Air Resources Board Enhanced Vapor Recovery (CARB EVR) Stage I Pressure Vacuum Vent Valve and CARB Stage I EVR rotatable product and vapor adaptors as described in the CARB Executive Orders listed in

Table 1. Facilities with coaxial tank systems will not be required to install rotatable adaptors at decommissioning.

- e. Prior to re-commencing operations following decommissioning, the following compliance tests will be performed:
  - i. Pressure Decay 2 inch Test, per CARB test procedure TP-201.3;
  - ii. Vapor Tie Test, per San Diego Air Pollution Control District test procedure TP-96-1, section 5.1.9;
  - iii. Pressure/Vacuum Vent Valve Test, per CARB test procedure TP-201.1E;
  - iv. Static Torque Rotatable Adaptor Test per CARB Test Procedure-201.1B (for facilities with CARB EVR rotatable product adaptors and vapor adaptors); and
  - v. If a facility has installed a Stage I Enhanced Vapor Recovery System, either Leak Rate of Drop Tube/Drain Valve Assembly Test per CARB Test Procedure-201.1 C or Leak Rate of Drop Tube/ Overfill Prevention Devices per CARB Test Procedure-201.1D.
- f. If a facility fails any of the tests cited in 4.e. above, the failed component shall be replaced with a comparable CARB EVR component.

#### **Proposed Regulatory Revisions to Stage I - II Programs**

- 1) **Stage II Regulations:** MassDEP will develop and publish draft Stage II regulations that will include, but not be limited to, the following proposals:
  - a. No gasoline dispensing facility (GDFs) shall install a Stage II system after the effective date of regulation.
  - b. All GDFs must decommission Stage II systems within 2 years of the effective date of the regulations.
  - c. MassDEP may issue up to a 2 year extension if a GDF with annual throughput of less than 500,000 gallons cannot meet the 2 year decommissioning deadline due to financial hardship or extenuating circumstances.
  - d. Until the Stage II system is decommissioned, all GDFs must comply with all applicable Stage II compliance requirements.
  - e. Decommissioning will be done in accordance with the PEI Recommended Practices for Installation and Testing of Vapor Recovery Systems at Vehicle-Fueling Sites, PEI/RP300-09, Section 14, Decommissioning Stage II Vapor Recovery Piping.
- 2) **Stage I Regulations:** MassDEP will develop and publish draft Stage I regulations for public comment that will include, but not be limited to, the following proposals:
  - a. All new GDFs (applies to any GDF where a fuel storage tank is installed after the effective date of regulation) must install a CARB-certified Stage I EVR System or a “mix and match” system composed of EVR components.
  - b. Within 7 years of the effective date of the regulation, existing GDFs must install:
    - i. A CARB-Certified Stage I EVR system pursuant to a CARB Stage I EVR Executive Order; or
    - ii. A “mix and match” system composed of EVR components.

- c. If not already installed, all GDFs with a Stage I System must install a CARB Stage I EVR pressure vacuum vent valve and CARB Stage I EVR rotatable product and vapor adaptors within 180 days of the effective date of the regulations. The requirement to install CARB Stage I EVR rotatable product and vapor adaptors within 180 days of the effective date of the regulations would not apply to GDFs with coaxial Stage I systems.
- d. Facilities replacing Stage I components must replace the components with CARB Stage I EVR components.
- e. All GDFs must conduct weekly visual inspections and the in-use compliance tests and certification cited in Section 4.e. above on an annual basis. If a facility fails any of the cited tests, the failed component shall be replaced with a comparable CARB EVR component.

#### **State Implementation Plan Requirements**

Owners and operators of Stage II facilities are advised that MassDEP's Stage II regulation, 310 CMR 7.24(6), is part of the Massachusetts' SIP and is, therefore, enforceable as a federal requirement. The federal requirement remains in place irrespective of MassDEP's exercise of enforcement discretion. In addition, any regulation eliminating Stage II requirements must be approved by the EPA. Massachusetts is required to submit a SIP revision to EPA that includes an analysis of the emissions impact of eliminating Stage II, a plan to address any resulting emissions increase and revisions to MassDEP's Stage II regulation. EPA must then determine whether the request for a SIP revision is approvable.

If you have any questions concerning the conditions of this directive, please call the MassDEP Stage II hotline at 617-556-1035, ext. 1, or Jeff Gifford at 617-556-1144; [jeffrey.gifford@state.ma.us](mailto:jeffrey.gifford@state.ma.us).

Sincerely,



Kenneth Kimmell  
Commissioner

**Table 1: Stage I Enhanced Vapor Recovery Executive Orders**

<b>Executive Order Number</b>	<b>Description</b>	<b>Date</b>
VR-101-M	<a href="#">Phil-Tite Phase I Vapor Recovery System</a>	May 24, 2012
VR-102-L	<a href="#">OPW Phase I Vapor Recovery System</a>	May 24, 2012
VR-103-F	<a href="#">EBW Phase I Vapor Recovery System</a>	May 24, 2012
VR-104-F	<a href="#">CNI Manufacturing Phase I Vapor Recovery System</a>	May 24, 2012
VR-105-C	EMCO Wheaton Retail Phase I Vapor Recovery	September 14, 2009